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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,851	09/28/2000	Donald L. Gadberry	A-1719-AV	1189

7590 02/27/2003

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EXAMINER

HALE, GLORIA M

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 02/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/675,851

Applicant(s)
Gadberry et al

Examiner
Gloria Hale

Art Unit
3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above, claim(s) 16-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 and 35-42 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

On page 10, line 13 it appears that "65" should read - - 70 - -. It appears that "65" is the flange and "70" is the surface.

Figure 3 includes two reference number"27" which are not described in the specification in regard to Figure 3.

Reference number 34 is described in the specification as being in Figure 4 on page 11, line 18 but it is not found in figure 4.

On page 12, line 19, reference number "96" is a slot. In line 21, reference number "96" is the flange. Correction is required.

In figures 8 and 9, reference number 96 is a flange (on the right side of figure 9) and a slot (96 on the left side)

On page 14 of the specification describes a reference numbers 81 and 78 which are not shown in figure 13 as described therein. On page 18, lines 14 and 15, reference number 143 in figure 18 is 143a.

Appropriate correction is required.

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Information Disclosure Statement

Only pages 1 and 2 of the IDS received on 4-5-01 has been received. Pages 3-6 have not been received. However, the references were received. Additional copies of pages 3-6 are requested.

The non-elected claims 16-34 should be canceled.

Claims 1-15 and 35-42 are allowable. None of the cited references, alone or in combination, disclose the surgical instrument with the handle assembly and end effector structured as claimed in claims 1-15 and 35-42.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria hale whose telephone number is (703) 308-1282.


Gloria Hale

Primary Patent Examiner- AU 3765

February 8, 2003